IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 183 (MS) OF 2005

Vahid,
S/o Hamid,
R/o Village-Khedlli,
Pargana-Bhagwanpur,
Tehsil-Roorkee, District-Haridwar. .....Petitioner.

Versus

1. Deputy Director of Consolidation/Collector Haridwar.
2. Intzar, S/o Aashik Ali,
R/o Village-Sikroda, Pargana-Bhagwanpur,
Tehsil-Roorkee, District-Haridwar.

.....Respondents.

Dated: 06.05.206

Hon'ble Rajesh Tandon, J.

Heard Sri Rajendra Singh, Advocate for the petitioner and learned Standing Counsel for the respondent no. 1.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order-dated 22.12.2004 passed by the respondent no. 1 in Revision No. 895 of 2002 Vahid Vs. Intzar U/s 48 of the U.P. Consolidation of Holdings Act, regarding Mauza Khedlli, Pargan Bhagwanpur, Tehsil Roorkee, District Haridwar (Annexure No. 2 to the writ petition).

Briefly stated, the petitioner filed an appeal being Appeal NO. 1134 U/s 11(1) of the Consolidation of Holdings Act before the learned Settlement Officer of Consolidation, Roorkee

Consolidation, Roorkee. The appeal was dismissed in default on 13.03.2001. The petitioner has moved a restoration application before settlement Officer Consolidation, Roorkee for settling aside the ex parte order-dated 13.03.2001, which was also dismissed in default on 19.08.2002.

The petitioner has submitted that a direction may be given that if the restoration application is filed, the same may be considered in accordance with law and the question of limitation may not come in the way of the petitioner while deciding the restoration application.

A perusal of the order shows that on 23.12.2004 the parties have not appeared and as such the revision has been dismissed in default.

In ***M.S. Grewal Vs. Deep Chand Sood (2001) 8 SCC 151,*** as under:-

"Law Courts will lose their efficacy if they cannot possibly respond to the need of the society-technicalities there might be may but the justice-oriented approach ought not to be thwarted on the basis of such technicality since technicality cannot and ought not to outweigh the course of justice."

Considering the principles that every one should be heard on merits, the petitioner is directed to file a restoration application and if such an application is filed, the same shall be considered in accordance with law and also the Presiding Officer shall given opportunity to the parties for hearing of the matter on merits.

Subject to the aforesaid observation, writ petition is dismissed.

(Rajesh Tandon, J.)

06.05.2006
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